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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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JAN 5 2001

In re

:
: DECISION ON
: PETITION FOR REGRADE
: UNDER 37 C.F.R. § 10.7(c)
:

MEMORANDUM AND ORDER

(petitioner) petitions for regrading his answers to questions 2, 7, 17 and 38 of the morning section and questions 16, 48 and 49 of the afternoon section of the Registration Examination held on April 12, 2000. The petition is denied to the extent petitioner seeks a passing grade on the Registration Examination.

BACKGROUND

An applicant for registration to practice before the United States Patent and Trademark Office (USPTO) in patent cases must achieve a passing grade of 70 in both the morning and afternoon sections of the Registration Examination. Petitioner scored 65. On July 21, 2000, petitioner requested regrading, arguing that the model answers were incorrect.

As indicated in the instructions for requesting regrading of the Examination, in order to expedite a petitioner's appeal rights, all regrade requests have been considered in the first instance by the Director of the USPTO.

OPINION

Under 37 C.F.R. § 10.7(c), petitioner must establish any errors that occurred in the grading of the Examination. The directions state: "No points will be awarded for incorrect answers or unanswered questions." The burden is on petitioners to show that their chosen answers are the most correct answers.

The directions to the morning and afternoon sections state in part:

Do not assume any additional facts not presented in the questions. When answering each question, unless otherwise stated, assume that you are a registered patent practitioner. Any reference to a practitioner is a reference to a registered patent practitioner. The most correct answer is the policy, practice, and procedure which must, shall, or should be followed in accordance with the U.S. patent statutes, the PTO rules of practice and procedure, the Manual of Patent Examining Procedure (MPEP), and the Patent Cooperation Treaty (PCT) articles and rules, unless modified by a subsequent court decision or a notice in the *Official Gazette*. There is only one most correct answer for each question. Where choices (A) through (D) are correct and choice (E) is "All of the above," the last choice (E) will be the most correct answer and the only answer which will be accepted. Where two or more choices are correct, the most correct answer is the answer which refers to each and every one of the correct choices. Where a question includes a statement with one or more blanks or ends with a colon, select the answer from the choices given to complete the statement which would make the statement true. Unless otherwise explicitly stated, all references to patents or applications are to be understood as being U.S. patents or regular (non-provisional) utility applications for utility inventions only, as opposed to plant or design applications for plant and design inventions. Where the terms "USPTO," "PTO," or "Office" are used in this examination, they mean the U.S. Patent and Trademark Office.

Petitioner has presented various arguments attacking the validity of the model answers.

All of petitioner's arguments have been fully considered. Each question in the Examination is worth one point.

Petitioner has been awarded 1 point for morning question 2. Accordingly, petitioner has been granted one additional point on the Examination. However, no credit has been awarded for morning questions 7, 17 and 38 and afternoon questions 16, 48 and 49. Petitioner's arguments for these questions are addressed individually below.

Morning question 7 reads as follows.

7. An application directed to hand shearing of sheep includes the following incomplete independent Claim 1 and dependent Claims 2-3.

Claim 1. An apparatus for shearing sheep, said apparatus comprising:

(i) a first cutting member having a first cutting edge at one end and a thumb loop at the other end;

(ii) a second cutting member having a second cutting edge at one end and a finger loop at the other end;

(iii) _____;

(iv) said second cutting member additionally including a pointer loop between said finger loop and said mid-point, said pointer loop having a pointer loop center, said finger loop having a finger loop center and said pointer loop having a pointer loop center such that a plane through said finger loop center and said pointer loop center is generally parallel to said second cutting edge for improved balance.

Claim 2. The apparatus of claim 1, wherein said first cutting member includes a threaded aperture extending entirely through said first cutting member between said thumb loop and said mid-point, and an adjusting screw that extends through said threaded aperture to engage a bearing surface below the pointer loop on said second cutting member.

Claim 3. The apparatus of claim 2, wherein said connector is a rivet.

Which of the following most broadly completes missing paragraph (iii) of Claim 1?

(A) "wherein said first cutting member and said second cutting member are pivotally secured to each other at respective mid-points, and wherein said finger loop is padded; and"

(B) "said first cutting member having a mid-point between its ends and said second cutting member having a mid-point between its ends, wherein said first cutting member and said second cutting member are pivotally secured to each other at their respective mid-points by a connector; and"

(C) "said first cutting member including a reservoir for dispensing disinfectant solution and having a mid-point between its ends, said second cutting member having a mid-point between its ends, and wherein said first cutting member and said second cutting member are pivotally secured to each other at their respective mid-points by a connector; and"

(D) "said first cutting member and said second cutting member being pivotally secured to each other by a connector; and"

(E) "said first cutting member having a mid-point between its ends and said second cutting member having a mid-point between its ends, and said first cutting member and said second cutting member are pivotally secured to each other at their respective mid-points; and"

The model answer is choice (B).

Answer (B) provides proper antecedent basis for "said mid-point" in part (iv) of Claim 1 and in Claim 2, and "said connector" in Claim 3. Answer (A) is incorrect at least because it does not provide antecedent basis for "said connector" in Claim 3. Answer (C) is narrower than Answer (B) because it includes the additional limitation of a reservoir and therefore does not "most broadly" complete claim 1. Answer (D) is incorrect because it does not provide proper antecedent basis for "said mid-point" in part (iv) of Claim 1 and in Claim 2. Answer (E) is incorrect because it does not provide antecedent basis for "said connector" in Claim 3.

Petitioner argues that none of the answers is correct. Petitioner contends that the question did not ask about 35 USC 112 issues and petitioner provides no argument as to why answer (A) is the better answer. Petitioner contends that answer (B) is incorrect because said midpoint in (iii) is indefinite and therefore not the best answer.

Petitioner's argument has been fully considered but is not persuasive. Contrary to petitioner's statement that answer (B) also lacks antecedent basis for "said midpoint", answer (B) specifically states that "said first cutting member **having a mid-point** between its ends and said second cutting member **having a mid-point** between its ends, wherein said first cutting member and said second cutting member are pivotally secured to each other **at their respective mid-points** by a connector; and." There is no phrase "said midpoint" in (iii). The phrase "said mid-point" in (iv) is specifically the mid-point of the second cutting member set forth in (B), and therefore answer (B) provides proper antecedent basis for "said mid-point" in (iv). As to petitioner's argument that the question did not ask about 35 USC 112 issues, the instructions

specifically state that the best answer is that in accordance with the U.S. patent statutes. No error in grading has been shown. Petitioner's request for credit on this question is denied.

Morning question 17 reads as follows:

17 Smith invented a laminate. In a patent application, Smith most broadly disclosed the laminate as comprising a transparent protective layer in continuous, direct contact with a light-sensitive layer without any intermediate layer between the transparent protective layer and the light-sensitive layer. The prior art published two years before the effective filing date of Smith's application included a laminate containing a transparent protective layer and a light-sensitive layer held together by an intermediate adhesive layer. Which of the following is a proper claim that would overcome a 35 U.S.C. § 102 rejection based on the prior art?

- (A) 1. A laminate comprising a transparent protective layer and a light-sensitive layer.
- (B) 1. A laminate comprising a transparent protective layer and a light-sensitive layer which is in continuous and direct contact with the transparent protective layer.
- (C) 1. A laminate comprising a transparent protective layer and a light-sensitive layer, but not including an adhesive layer.
- (D) (A) and (B).
- (E) (B) and (C).

The model answer is choice (E).

(E) is correct because (B) and (C) are correct. (A) does not overcome the prior art because the broad "comprising" language permits the laminate to include additional layers, such as an adhesive layer. MPEP 2111.03. (B) overcomes a 35 U.S.C. § 102 rejection because the claim requires a light-sensitive layer to be in continuous and direct contact with the transparent protective layer, whereas the prior art interposes an adhesive layer between the light-sensitive layer and transparent protective layer. (C) also avoids the prior art by using a negative limitation to particularly point out and distinctly claim that Smith does not claim any laminate including an adhesive layer. MPEP 2173.05(i).

Petitioner argues that answer (B) alone is correct. Petitioner contends that answer (C) is an improper aggregate claim and should be rejected for aggregation. Petitioner concludes that answer (C) is incorrect and maintains that answer (E) is incorrect for the same reason.

Petitioner's argument has been fully considered but is not persuasive. Contrary to petitioner's statement that answer (C) is an improper aggregate claim and should be rejected for aggregation, the answer specifically states that the laminate comprises a transparent protective layer and a light-sensitive layer which is in continuous and direct contact with the transparent protective layer. The continuous and direct contact provides the cooperation that must be missing for a claim to be rejected as an aggregation. Accordingly, answer (C) is a proper claim, rendering answer (C) correct. The statement in answer (E) is correct. No error in grading has been shown.

Petitioner's request for credit on this question is denied.

Morning question 38 reads as follows:

38. Inventor Charles patented a whirlwind device for defeathering poultry. Although the scope of the claims never changed substantively during original prosecution of the patent application, practitioner Roberts repeatedly argued that limitations appearing in the original claims distinguished the claimed subject matter from prior art relied upon by the examiner in rejecting the claims. After the patent issued, Charles realized that the claims were unduly narrow, and that the limitations argued by Roberts were not necessary to patentability of the invention. Accordingly, a timely application was made for a broadened reissue patent in which Charles sought claims without limitations relied upon by Roberts during original prosecution.

The new claims were properly supported by the original patent specification. Charles asserted in his reissue oath that there was an error in the original patent resulting from Roberts' failure to appreciate the full scope of the invention during original prosecution of the application. No supporting declaration from Roberts was submitted in the reissue application. Based on the foregoing facts and controlling law, which of the following statements is most accurate?

- (A) Although the scope of the claims was not changed substantively during prosecution of the original patent, the recapture doctrine may preclude Charles from obtaining the requested reissue because of the repeated arguments made by practitioner Roberts.
- (B) The recapture doctrine cannot apply because the claims were not amended substantively during original prosecution.
- (C) The reissue application will not be given a filing date because no supporting declaration from practitioner Roberts was submitted.
- (D) The doctrine of prosecution history estoppel prevents Charles from seeking by reissue an effective claim scope that is broader than the literal scope of the original claims.
- (E) The doctrine of late claiming prevents Charles from seeking an effective claim scope broader than the literal scope of the original claims.

The model answer is choice (A).

Selection (A) is the best answer as per *Hester v. Stein*, 46 USPQ2d 1641 (Fed. Cir. 1998). (B) is wrong because arguments alone can cause a surrender of subject matter that may not be recaptured in reissue. *Id.* (C) is wrong because, even if a declaration from Roberts is needed to help establish error, the reissue application will receive a filing date without an oath or declaration. See, e.g., 37 C.F.R. § 1.53(f), MPEP § 1403. (D) is not correct because, although the recapture rule and prosecution history estoppel are similar, prosecution history estoppel relates to efforts by a patentee to expand the effective scope of an issued patent through the doctrine of equivalents. *Hester*. (E) is incorrect because "late claiming" was long ago discredited, particularly in the context of reissue applications. See, e.g., *Correge v. Murphy*, 217 USPQ 753 (Fed. Cir. 1983); *Railroad Dynamics, Inc. v. A. Stucki Company*, 220 USPQ 929.

Petitioner argues that (B) is correct and (A) is incorrect because recapture is an equitable and judicially created doctrine. Petitioner contends that equity would preclude having arguments alone cause surrender of subject matter. Petitioner concludes that answer (A) is incorrect and maintains that answer (B) is correct because of such equity.

Petitioner's argument has been fully considered but is not persuasive. Contrary to petitioner's statement that the answer (B) is the best given the equity of recapture, the instructions specifically state that the most correct answer is the policy, practice, and procedure which must,

shall, or should be followed in accordance with the U.S. patent statutes, the PTO rules of practice and procedure, the Manual of Patent Examining Procedure (MPEP), and the Patent Cooperation Treaty (PCT) articles and rules, **unless modified by a subsequent court decision** or a notice in the *Official Gazette*. As explained in *Hester v. Stein*, 46 USPQ2d 1641 (Fed. Cir. 1998), (A) is correct and (B) is wrong because arguments alone can cause a surrender of subject matter that may not be recaptured in reissue. Accordingly, case law had modified the PTO rules of practice, rendering arguments alone as a cause for surrender of subject matter under recapture. The statement in answer (A) is correct. No error in grading has been shown. Petitioner's request for credit on this question is denied.

Afternoon question 16 reads as follows:

Please answer questions 16 and 17 based on the following facts. On February 15, 1999, Debbie conceived a unique system for humanely caging hunting dogs and automatically feeding them at appropriate times. Debbie told her husband, Ted, about her idea that night, and the two spent the next four months working regularly on the concept. Ted built a cage that implemented the concept on June 17, 1999, and tested it on his own dogs for a week. It worked perfectly for its intended purpose. The next day, Ted visited a family friend, Ginny, who happened to be a registered practitioner, and asked her to prepare a patent application on Debbie's behalf. Ginny declined representation, explaining that she was in the middle of trial preparation and would not be able to work on the application for at least four months. Ginny gave Ted the names of a number of qualified patent practitioners, suggesting he consider retaining one of them to promptly prepare the patent application, and explained that a delay in filing the patent application could prejudice Debbie's patent rights. Ted, however, felt uncomfortable going to a practitioner he did not know personally, and did not contact any of the individuals recommended by Ginny. After Ginny had completed her trial and was back in the office, Ted visited her on December 1, 1999. At that time Ginny agreed to represent Debbie. An application was filed in the PTO within 10 days.

On May 15, 1999, Billie conceived an idea substantively identical to Debbie's. Billie immediately prepared a detailed technical description including drawings and visited a registered practitioner. Billie filed a patent application on June 14, 1999. Later, on July 9, 1999, Billie built a cage that implemented the concept and had fully tested it by August 11, 1999.

16. Assuming Debbie's patent application is substantively identical to Billie's patent application, which of the following statements is most correct?

- (A) Nearly simultaneous invention by Debbie and Billie is proof that the invention is obvious and precludes patentability.
- (B) Nearly simultaneous invention by Debbie and Billie may be evidence of the level of skill in the art at the time of the invention.
- (C) Nearly simultaneous invention by Debbie and Billie may be evidence of a long-felt need for the invention.
- (D) Nearly simultaneous invention by Debbie and Billie may be evidence of commercial success of the invention.
- (E) Statements (A), (B), (C) and (D) are each incorrect.

The model answer is choice (B).

Selection (B) is correct as per *The International Glass Company, Inc. v. United States*, 159 USPQ 434 (US Cl Ct, 1968); *In re Merck & Co.*, 231 USPQ 375 (Fed. Cir. 1986); *Newell Cos. v. Kenney Mfg.*, 9 USPQ2d 1417 (Fed. Cir. 1988); *Monarch Knitting Machinery Corp. v. Sulzer Morat GmbH*, 45 USPQ2d 1977 (Fed. Cir. 1998). Statement (A) is not correct because, although nearly simultaneous invention may be a factor in making an obviousness determination, it does not in itself preclude patentability. *Environmental Designs, Ltd. v. Union Oil Co.*, 218 USPQ 865 (Fed. Cir. 1983). Statements (C) and (D) are incorrect because nearly simultaneous invention bears on neither long-felt need nor commercial success. Statement (E) is incorrect because statement (B) is correct.

Petitioner argues that none of the answers is correct. Petitioner contends that the MPEP is silent on the examined point and none of the case law supports answer (B). Petitioner concludes that answer (B) is incorrect and maintains that answer (E) is correct because it is the only answer indicating all other answers are incorrect.

Petitioner's argument has been fully considered but is not persuasive. *International Glass* stated at 442, "[t]he fact of near simultaneous invention, though not determinative of statutory obviousness, is strong evidence of what constitutes the level of ordinary skill in the art." *Merck*

stated at 380, “[t]he additional, although unnecessary, evidence of contemporaneous invention is probative of ‘the level of knowledge in the art at the time the invention was made.’ In re Farrenkopf, 713 F.2d 714, 720, 219 USPQ 1, 6 (Fed. Cir. 1983).” *Monarch Knitting* stated at 1983, “[t]his court has noted the relevance of contemporaneous independent invention to the level of ordinary knowledge or skill in the art”, referring to *Merck*. Accordingly, nearly simultaneous invention by Debbie and Billie may be evidence of the level of skill in the art at the time of the invention, rendering the statement in answer (B) correct. No error in grading has been shown. Petitioner’s request for credit on this question is denied.

Afternoon question 48 reads as follows:

48. Which of the following statements regarding 35 U.S.C. § 103 is most correct?

- (A) PTO classification of prior art references used to reject a claim under 35 U.S.C. § 103, and the similarities and differences in structure and function carry equal weight as evidence of whether the references are analogous or non-analogous.
- (B) The question of obviousness under 35 U.S.C. § 103 is resolved by determining whether the differences between the prior art and the claims would have been obvious.
- (C) Obviousness of an invention can be properly determined by identifying the “gist” of the invention, even where the “gist” does not take into regard an express limitation in the claims.
- (D) In delineating the invention, consideration is given not only to the subject matter recited in the claim, but also the properties of the subject matter which are inherent in the subject matter and disclosed in the specification.
- (E) Obviousness can be predicated on what is not known at the time an invention is made, where the inherency of the feature is later established.

The model answer is choice (D).

(D) is the most correct answer as per 35 U.S.C. § 103(a); *In re Antonie*, 559 F.2d 618, 620, 195 USPQ 6, 8 (CCPA 1977) (“In delineating the invention as a whole, we look not only to the

subject matter which is literally recited in the claim in question... but also to those properties of the subject matter which are inherent in the subject matter *and* are disclosed in the specification..."); MPEP 2141.02 (section styled, "Disclosed Inherent Properties Are Part of 'As A Whole' Inquiry").

(A) is incorrect. MPEP 2141.01(a). PTO classification is some evidence of analogy/non-analogy, but structure and function carry more weight.

In re Ellis, 476 F.2d 1370, 1372, 177 USPQ 526, 527 (CCPA 1973).

(B) is incorrect. MPEP 2141.02. The question under 35 U.S.C. § 103 is whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983).

(C) is incorrect. MPEP 2141.02 (section styled, "Distilling The Invention Down To a 'Gist' or 'Thrust' Of An Invention Disregards 'As A Whole' Requirement"). *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984); *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1 USPQ2d 1593 (Fed. Cir. 1987), *cert. denied*, 481 U.S. 1052 (1987) (district court improperly distilled claims down to a one word solution to a problem).

(E) is incorrect. As stated in MPEP 2141.02 (section styled, "Disclosed Inherent Properties Are Part Of 'As A Whole' Inquiry"), "Obviousness cannot be predicated on what is not known at the time an invention is made, even if the inherency of a certain feature is later established. *In re Rijckaert*, 9 F.2d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993)."

Petitioner argues that (A) is correct. Petitioner contends that (D) is incorrect because inherent properties unknown to those of ordinary skill cannot be considered and answer (A) is correct because all relevant art carries equal weight. Petitioner concludes that answer (D) is incorrect and maintains that answer (A) is correct.

Petitioner's argument has been fully considered but is not persuasive. Contrary to petitioner's statement that answer (A) is correct because all relevant art carries equal weight, answer (A) states "PTO classification of prior art references used to reject a claim under 35 U.S.C. § 103, and the similarities and differences in structure and function carry equal weight as evidence of whether the references are analogous or non-analogous." PTO classification is some evidence of analogy/non-analogy, but structure and function carry more weight. *In re Ellis*, 476 F.2d 1370, 1372, 177 USPQ 526, 527 (CCPA 1973) states "While we find the diverse Patent

Office classification of the references to be some evidence of "non-analogy," and likewise find the cross-reference in the official search notes to be some evidence of "analogy," we consider the similarities and differences in structure and function of the inventions disclosed in the references to carry far greater weight."

As to answer (D), contrary to petitioner's statement that consideration is not given to subject matter that is inherent but disclosed or known to one of ordinary skill, the model answer's cited case *In re Antonie*, 559 F.2d 618, 620, 195 USPQ 6, 8 (CCPA 1977), specifically states that "In delineating the invention as a whole, we look not only to the subject matter which is literally recited in the claim in question...but also to those properties of the subject matter **which are inherent in the subject matter and are disclosed in the specification...**" This shows the correctness of answer (D) and negates petitioner's arguments both by stating that consideration is given to the invention as a whole, which necessarily incorporates all properties, and by grammatically mirroring answer (D). To the extent answer (D) is subject to multiple interpretations, so is the case that demonstrates the correctness of answer (D). Therefore, answer (D) cannot be negated on grammatical grounds. Further *Antoine* and MPEP § 2141.02 both state that the invention as a whole is considered which necessarily includes inherent properties. Accordingly, answer (D) is correct and answer (A) is incorrect. No error in grading has been shown. Petitioner's request for credit on this question is denied.

Afternoon question 49 reads as follows:

49. A parent application A was filed on September 9, 1988, and became abandoned on October 19, 1993. Application B was filed on October 21, 1993, and referred to application A as well as claimed the benefit of the filing date of application A. Application B issued as a patent on June 17,

1997. Application C was filed on October 29, 1993, and referred to application B as well as claimed the benefit of the filing date of application B. Application D was filed on December 20, 1996. Application D referred to application B and claimed the benefit of the filing date of application B. Both applications C and D were abandoned for failure to file a timely reply to Office actions that were mailed on April 20, 1999. Application E was filed on July 22, 1999 and is drawn to the same invention as claimed in applications C and D. Application E claims the benefit of the filing dates of applications A, B, C, and D, and makes reference to all preceding applications. The earliest effective filing date of application E with respect to any common subject matter in the prior applications is:

- (A) October 21, 1993.
- (B) December 20, 1996.
- (C) October 29, 1993.
- (D) September 9, 1988.
- (E) July 22, 1999.

The model answer is choice (E).

The applications C and D were abandoned after midnight of July 21, 1999, therefore they are technically not abandoned on July 21, 1999. There is no copendency between applications E and any prior application. MPEP § 201.11 ("If the first application is abandoned, the second application must be filed before the abandonment in order for it to be co-pending with the first."). See MPEP § 710.01(a), fourth paragraph.

Petitioner argues that answer (A) is correct. Petitioner contends that the facts pattern does not indicate shortened statutory periods.

Petitioner's argument has been fully considered but is not persuasive. Contrary to petitioner's statement that the facts pattern does not indicate shortened statutory periods, the instructions specifically state that the most correct answer is the policy, practice, and procedure which must, shall, or should be followed in accordance with the U.S. patent statutes, the PTO rules of practice and procedure, the Manual of Patent Examining Procedure (MPEP), and the Patent Cooperation Treaty (PCT) articles and rules, unless modified by a subsequent court decision or a notice in the *Official Gazette*. As explained in MPEP § 710.02(b), under the authority given him by 35 USC § 133, the Commissioner has directed the examiner to set a

shortened period for reply to every action. That same MPEP section also states that such shortened period is 3 months to reply to any Office action on the merits. Accordingly, applications C and D are assigned shortened periods according to the PTO rules of practice and procedure, rendering C and D abandoned at the time of E's filing and making the correct answer (E). No error in grading has been shown. Petitioner's request for credit on this question is denied.

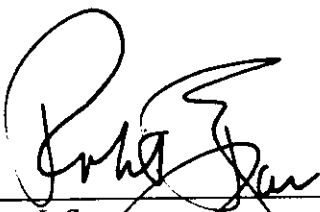
The regrade of the petitioner's examination has been conducted fairly and without discrimination pursuant to a uniform standard using the PTO's model answers. See *Worley v. United States Patent and Trademark Office*, No. 99-1469, slip op. at 4 (D.D.C. Nov. 8, 2000)(The court held that the PTO's Model Answers are a uniform standard. "[S]ince all exams are graded in reference to [the Model Answers], use of the Model Answers fosters uniformity in grading and preclude[s] unfair and individually discriminatory grading." *Id.*, slip opinion at 5. The court concluded that "the decision of the Commissioner of the USPTO not to regrade Mr. Worley's examination answers as correct when the answers did not conform with the USPTO's Model Answers was not arbitrary and capricious." *Id.*, slip opinion at 5-6.)

ORDER

For the reasons given above, one point has been added to petitioner's score on the Examination. Therefore, petitioner's score is adjusted to 66. This score is insufficient to pass the Examination.

Upon consideration of the request for regrade to the Director of the USPTO, it is ORDERED that the request for a passing grade on the Examination is denied.

This is a final agency action.



Robert J. Spar
Director, Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy